

# **WARREN COUNTY BOARD OF SUPERVISORS**

**COMMITTEE: CRIMINAL JUSTICE**

**DATE: JANUARY 26, 2015**

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**COMMITTEE MEMBERS PRESENT:**

SUPERVISORS DICKINSON  
KENNY  
MONROE  
VANSELOW  
BROCK  
SEEBER  
SIMPSON

**OTHERS PRESENT:**

KATE HOGAN, DISTRICT ATTORNEY  
ROBERT IUSI, DIRECTOR OF PROBATION  
JOHN WAPPETT, PUBLIC DEFENDER  
JOY LAFOUNTAIN, ASSIGNED COUNSEL ADMINISTRATOR  
KEVIN B. GERAGHTY, CHAIRMAN OF THE BOARD  
PAUL DUSEK, COUNTY ADMINISTRATOR  
JOAN SADY, CLERK OF THE BOARD  
FRANK E. THOMAS, BUDGET OFFICER  
SUPERVISORS FRASIER  
MERLINO  
TAYLOR  
SOKOL  
DON LEHMAN, *THE POST STAR*  
SAMANTHA HOGAN, ASSISTANT SECRETARY TO THE CLERK OF THE BOARD

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Mr. Dickinson called the meeting of the Criminal Justice Committee to order at 9:30 a.m.

Motion was made by Mr. Kenny, seconded by Mr. Monroe and carried unanimously to approve the minutes from the previous Criminal Justice Committee meeting, subject to correction by the Clerk of the Board.

Privilege of the floor was extended to Kate Hogan, District Attorney, who distributed copies of her agenda to the Committee members; *a copy of the agenda is on file with the minutes.*

Commencing the agenda review Ms. Hogan presented a request to extend the existing agreement with the Department of Criminal Justice Services (DCJS) for the Crimes Against Revenue Prosecution (CARP) Grant for the term commencing January 1, 2015 and terminating December 31, 2015 in an amount not to exceed \$70,000.

Motion was made by Mr. Simpson, seconded by Mr. Kenny and carried unanimously to approve the extension and the necessary resolution was authorized for the February 20<sup>th</sup> Board meeting. *A copy of the resolution request form is on file with the minutes.*

Next, Ms. Hogan presented a request to ratify actions of the Chairman in executing an application to the DCJS for a Drug Enforcement grant in the amount of \$10,000. She explained that there had been a short window in which to submit the grant application which had not allowed for the item to be presented to the Committee before applying. Ms. Hogan stated that these grant funds would be used for the sole purpose of purchasing a Celebrite Ultimate Touch Reader, which she explained was a piece of equipment used to forensically analyze cell phones obtained as evidence in many drug related cases.

Motion was made by Mr. Vanselow, seconded by Mr. Kenny and carried unanimously to approve the request and the necessary resolution was authorized for the February 20<sup>th</sup> Board Meeting. *A copy of the resolution request is on file with the minutes.*

Finally, Ms. Hogan presented a request to amend the County Budget to accept the \$10,000 Drug Enforcement grant award.

Motion was made by Mr. Monroe, seconded by Mr. Simpson and carried unanimously to approve

the request and refer same to the Finance Committee. *A copy of the resolution request form is on file with the minutes.*

This concluded the review of the District Attorney agenda; privilege of the floor was extended to Robert Iusi, Director of the Probation Department, who distributed copies of his agenda to the Committee members; *a copy of the agenda is on file with the minutes.*

Commencing his agenda review, Mr. Iusi presented a request to extend the Memorandum of Understanding (MOU) with the Warren County Department of Social Services. He advised this MOU allowed for funding of a Probation Officer to perform preventive service work for the PINS (*Persons in Need of Supervision*) program at cost of \$60,000 annually.

Motion was made by Mr. Kenny, seconded by Mr. Monroe and carried unanimously to approve the request and the necessary resolution was authorized for the February 29<sup>th</sup> Board Meeting. *A copy of the resolution request form is on file with the minutes.*

Next, Mr. Iusi presented a request to extend the contract with Warren-Hamilton Counties Action Committee for Economic Opportunity, Inc. He noted that the Community Action Centers provided an Alternative Sentencing Program for the local court system at a cost of \$51,000 annually.

Ms. Seeber asked if both the MOU with the Department of Social Services (\$60,000) and the Warren-Hamilton Counties Action Committee for Economic Opportunity, Inc. contract (\$51,000) were grant funded or covered in the existing County Budget. Mr. Iusi responded that the MOU with the Department of Social Services was funded using preventive services monies obtained by the Department of Social Services through the Office of Children and Family Services (OCFS); he added that the preventive match was 62% reimbursable, and probation officers, was only about 12%. He stated that there was more reimbursement for the County through the Probation Officers match. Mr. Iusi advised the initial funding was provided from the Department of Social Services' Budget and they received reimbursement from the State. Regarding the Warren-Hamilton Counties Action Committee for Economic Opportunity, Inc. contract, he advised \$5,236 was State money and the remaining \$45,764 was funded by the County. Ms. Seeber questioned whether the money was already in the existing Budget, and Mr. Iusi responded affirmatively.

Motion was made by Mr. Simpson, seconded by Mr. Brock and carried unanimously to approve the request and the necessary resolution was authorized for the February 20<sup>th</sup> Board Meeting. *A copy of the resolution request form is on file with the minutes. Note: Subsequent to the meeting it was determined this resolution was not necessary as Resolution 540 of 2013 provided authorization for the extension.*

Moving on, Mr. Iusi presented the request to extend the existing agreement with KMG Monitoring Services for electronic monitoring of adult offenders for the term commencing January 1, 2015 and terminating December 31, 2015 in an amount not to exceed \$7,500. He said they had started this monitoring program in 2014, with the Release Under Supervision Program, which he explained meant that the County Judge released individuals to the Probation program by either reducing bail or under supervision. He continued that with the KMG system individuals could be electronically monitored to support the Judge in releasing individuals. Mr. Iusi noted that \$10,000 had been put into the 2014 budget to cover the cost of these services, but not all of that funding was expended; therefore, he said, for 2015 he had only budgeted \$7,500 for this expense. Mr. Iusi informed that the monitoring system was used for sanctions for individuals placed in the County Court Drug program which typically required a minimum of a week in jail. He noted that in some of these cases the electronic monitoring was used, rather than placing an offender in jail. Mr. Iusi affirmed individuals can be sanctioned for using alcohol and/or drugs and sent to jail to await a treatment bed which could take 30 to 60 days before a bed became available. In these circumstances they would be placed under supervision of the Probation Department, saving money and freeing jail

space. He advised that last year was the first year using the monitoring system and stated that he believed it to be a success.

Motion was made by Ms. Seeber and seconded by Mr. Vanselow to approve the request.

Ms. Seeber questioned whether there is any responsibility for the defendants to pay for the use of the electronic monitoring. Mr. Iusi responded that a majority of the individuals that qualified for the electronic monitoring did not have the means to pay for the services and he noted that most of the individuals were clients of the Public Defender's Office. Ms. Seeber asked if any other counties charge for this service and Mr. Iusi responded he was not aware of any.

Mr. Dickinson called the question and the request to extend the contract with KMG Monitoring Services was carried unanimously and the necessary resolution was authorized for the February 20<sup>th</sup> Board Meeting. *A copy of the request is on file with the minutes.*

Next, Mr. Iusi presented a request to delete the position of Probation Officer #8 from the Salary Schedule and amend the Table of Organization accordingly. He explained that in April of 2014 he had requested, and been authorized, to change the part-time Probation Assistant to full-time with the expectation of eliminating the aforementioned Probation Officer #8 position.

Motion was made by Mr. Monroe, seconded by Mr. Simpson and carried unanimously to approve the request and refer same to the Personnel Committee. *A copy of the resolution request form is on file with the minutes.*

Moving on to the "Information for Discussion" portion of the agenda, Mr. Iusi addressed the initiative to raise the age of criminality from 16 to 18 years of age. He stated that Governor Cuomo had appointed a Commission to research the possibility of making this change and had put forth legislation in the State Budget Bill, as well. He noted that New York and North Carolina were the only two states with an age of criminality at 16, which meant that in these states individuals 16 years of age or older were treated as adults when charged with a crime. Mr. Iusi said that if the age of criminality was increased, the Probation Department and the local criminal justice system would have to adjust accordingly to move 16 and 17-year-old offenders with misdemeanor and non-violent felony charges into the Juvenile System. Mr. Iusi mentioned that the Bill had recently been put forth and he would update the Committee as he received new information. He advised that there would be a fiscal impact on the County, as this change could affect up to 100 cases; he added it was likely that additional staffing and new positions including Family Engaging Specialists would be needed. He explained that this younger population would need more than just assessment and monitoring, requiring that new programs be put in place. Mr. Iusi noted that the Bill was originally put forth by the Office of Court Administration, where the additional costs to local Probation Departments, County Attorney Offices that prosecuted juvenile delinquents, as well as the Department of Social Services were discussed. Mr. Iusi indicated that NYSAC had been keeping up with the information and he stated that they would not support the Bill without support given to the localities. He notified that he wanted to bring this to the Committee's attention, due to the fact that it was mentioned in the Governors "State of the State Address" and Budget Bill. Mr. Iusi, said he would keep this matter on his agenda and continue to give updates as he learned more. He further noted that the Bill was not projected to go into effect until 2017 when they would slowly introduce the 16 to 17 year olds; in 2018, he added, they would phase the 17 to 18-year-old population into the system.

Mr. Dickinson thanked Mr. Iusi and advised that an update on this matter had been provided by the New York State Association of Counties (NYSAC) at a recent Intercounty Legislative Committee of the Adirondacks meeting.

Chairman Geraghty asked how this change would impact the operations of the Probation Office.

Mr. Iusi stated the Bill indicated that the 16 and 17 year-old offenders were currently being prosecuted by the District Attorney's Office and under the new law they would be sent to the Probation Office first for an assessment as to whether they would be eligible for Probation or referred out of the system. He informed that this did not include violent felony cases that would continue to be handled by the District Attorney's Office. He noted that the list of programs for probation at this time was very limited and explained that mental health services would be needed. He advised that recently juvenile sex offenders had increased and noted that there were no programs for them. Mr. Iusi explained that over the past few years Probation department in general had limited the amount of Detention Facilities that are used. He noted that the Detention Home in Warren County is no longer, and now they are stating that a majority of the 16 to 17-year-olds would not go to the local jail or state prison. He stated that this implied bringing back Detention Facilities, and the OCFS secure Facilities had been phased down due to the investigation by the Federal Government. Mr. Iusi advised that there will be a lot of infrastructures that needed to be in place, which we currently do not have.

Mr. Monroe suggested that Warren County take a position on this matter with the State Legislature, even if it was to indicate support, if additional program funding was provided. Mr. Iusi agreed, stating that he felt the County should be supportive, if the initiative included full funding. He said that NYSAC had opined that 100% reimbursement should be provided by the State, but he pointed out if this change were to continue in the future, the state would need to provide long term support. Mr. Monroe questioned whether Mr. Iusi could estimate the financial impact of the change and Mr. Iusi responded that when they had done a preliminary assessment in the Probation Office they estimated that an additional Probation Assistant and Probation Officer position would be needed, adding two new salaries of about \$73,000 to \$74,000 per year, not including benefits, office space and programs. Mr. Iusi said he would estimate up to \$250,000 not including detention costs.

Mr. Monroe opined that the County's stance on this matter should be expressed to the State Legislature soon to increase the chances for receiving additional funding for Probation programs.

Mr. Dickinson suggested a letter to the State Legislature be drafted expressing Warren County's position on juvenile justice reform to be presented at the next Criminal Justice Committee meeting; Mr. Iusi replied that he would draft the letter.

Mr. Brock inquired about whether the State was considering raising the age at which juveniles were able to drop out of school. Mr. Iusi said he believed there had been discussions about raising the compulsory age of education and he opined it would be a great idea if they raised the age as a component of the age of criminality change.

Ms. Seeber asked if there was any talk about introducing a specialized court to address 16 and 17-year-old offenders. Mr. Iusi stated that another component discussed was misdemeanor and non-violent felons to be handled in the Family Court, and the violent offenders handled by the District Attorney's Office would go into a special term within the County Court.

This concluded the Probation Agenda and privilege of the floor was extended to John Wappett, Public Defender, who distributed copies of the agenda to the Committee members; *a copy of the agenda is on file with the minutes.*

Commencing his agenda review, Mr. Wappett notified the Committee that he would be retiring at the end of June and he had been working with Paul Dusek, County Administrator, to ensure that there was a smooth transition in the Public Defenders Office when he left.

Next, Mr. Wappett stated that while starting the retirement process, he was informed by Human Resources (HR) Office that he had 791 hours (113 days) of sick leave accrued for which he would receive a 50% payout. He stated that he had asked HR to allow him to include 27 days of sick leave

left behind when his appointment as First Assistant District Attorney had ended on January 1, 2002. Mr. Wappett explained the HR Office advised they had no precedent for this, with the exception of for those employees who resigned or were fired. He stated that he had not left County service of his own accord as he was not reappointed at the end of 2001. Mr. Wappett said he had consulted with Martin Auffredou, County Attorney, and Mr. Dusek, neither of whom could locate any precedent for this situation. He informed the Committee that he was seeking approval to use 189 hours (27 days) of sick leave from his previous employment with the County to allow him to receive the maximum sick leave reimbursement upon retirement. There being no questions or comments on the matter, Mr. Wappett moved on with the agenda review.

Item 4, Mr. Wappett stated was a request to ratify the actions of Chairman of the Board in executing a grant application with the New York State Office of Indigent Legal Services, to improve the quality of representation for indigent legal services for a term commencing January 1, 2015 and terminating December 31, 2017 in an amount not to exceed \$320,436. He explained that the funding was used for salary adjustments in the Public Defenders Office part time Assistant in the Assigned Counsel Office and various equipment and supplies for the Legal Aid Society.

Motion was made by Mr. Vanselow, seconded by Mr. Simpson and carried unanimously to approve the request and the necessary resolution was authorized for the February 20<sup>th</sup> Board meeting. *A copy of the resolution request form is on file with the minutes.*

Mr. Dickinson asked if Mr. Dusek would comment on the sick leave information that was presented.

Mr. Dusek stated that he and Mr. Wappett had a conversation and noted that he had advised Mr. Wappett if he wanted to pursue this he would need to get the information to the Committee members. He noted that he had not yet had the opportunity to meet with Mr. Auffredou and Gretchen Steffan, Human Resources Director, on this matter and said he would prefer to report back to the Committee next month; Mr. Dusek suggested the Committee delay a decision on this matter pending his update.

Mr. Dickinson noted that they would revisit the issue at next month's Criminal Justice Committee meeting.

Seeking clarification, Ms. Seeber questioned whether an employee was allowed to have their sick time reinstated, if they left the County's employ and then returned. Mr. Wappett responded that he did not believe so, but there was no guidance on this situation. He added that the only information Mr. Auffredou could locate was within the Civil Service Agreement, which stated that within a given time-frame sick leave could be reinstated; however, he noted, the Public Defender position was a Civil Service position.

Ms. Seeber asked if information on the Union contract could be provided when this item was discussed at the next Committee meeting. Mr. Wappett noted the Union contract specified a two-month time-frame. Ms. Seeber also requested information on the dollar amount of the 27 sick days Mr. Wappett was requesting.

Mr. Kenny stated he was concerned that this would set a precedence; he added that such an allowance would reflect on Civil Service procedures, even though it was not a Civil Service issue. Mr. Kenny was concerned that the Union could come back and point out that this was allowed for Mr. Wappett and that it should also be allowed for Union employees.

Mr. Brock stated that he had the same concerns as Mr. Kenny. He added he thought that the Personnel Committee would be a better place to present this as that Committee had better knowledge of these types of situations.

Motion was made by Mr. Brock, seconded by Mr. Monroe and carried unanimously to refer the matter to the Personnel Committee for review.

There being no further business to come before the Criminal Justice Committee, on motion made by Mr. Sokol and seconded by Ms. Seeber, Mr. Dickinson adjourned the meeting at 10:07 a.m.

Respectfully submitted,  
Samantha Hogan, Assistant Secretary to the Clerk of the Board